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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/073,233 | 02/13/2002 | Klaus Sammt | P21709.P06 | 4451 |
| 7055 | 7590 | 05/05/2004 | EXAMINER | |
| GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191 | | | JENKINS, DANIEL J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1742 | |
| DATE MAILED: 05/05/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|--------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/073,233 | SAMMT ET AL. |
| Examiner | Art Unit | |
| Daniel J. Jenkins | 1742 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) ____ is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) ____ is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date ____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

1. The Examiner has carefully considered Applicant's Amendment and Remarks of 1/16/04. The Examiner agrees with Applicant's position as taken in regard to the process claims and finds these claims allowable (see paragraph 4 below). However, the Examiner does not find the alloy composition distinguished from the prior art and maintains his rejection in regard to these claims, noting that Applicant's Remarks are directed to distinguishing the process and not the composition of the instant invention.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. ³⁴ ~~35-37~~ Claims 1-18 and ~~35-37~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over Lacoude et al.

Lacoude et al. disclose the invention substantially as claimed. Lacoude et al. disclose a martensitic stainless steel comprising all of the claimed components as disclosed by Applicant. Furthermore, Lacoude et al. disclose ranges of claimed components that completely overlap the claimed ranges, except for Cr, which substantially overlaps that as claimed, falling short of the upper limit.

The overlap of the claimed ranges establishes a *prima facie* case of obviousness, including the approximation of the range of Cr, where it is known in the art to those of ordinary skill to increase the amount of Cr in the alloy based on the amount of other alloying elements to obtain alloys of high corrosion resistance.

Additionally, the claims directed to the use of the alloy (35-37) are obvious uses of alloy steel of good corrosion resistance in the field of frame and mold applications in corrosion environments.

4. Claims 19-33 are allowed. The Examiner finds that the prior art does not teach or suggest the annealing regiment as claimed by the Applicant, and to modify Lacoude et al. would go against the teaching of Lacoude et al. which clearly states that the select process conditions in Lacoude et al. are necessary to form the structure of the material of Lacoude et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Jenkins whose telephone number is 571-272-1242. The examiner can normally be reached on M-TH6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-272-1242. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel J. Jenkins
Primary Examiner
Art Unit 1742

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